

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.451 OF 2003

IN

SUMMARY SUIT NO.4096 OF 2002

Mr.Prataprai M. Doshi.

...Plaintiff

vs.

M/s.Globe Plastics & others.

...Defendants.

Mr.P.P.Patel, for Plaintiff.

Mr.G.B.Nagarsekhar i/b. J.N. & Associates, for Defendant nos.1 to 3.

CORAM: D.K.DESHMUKH,J.

DATED: 5th June, 2006.

P.C.:-

1. The plaintiff has filed the suit for recovery of amount of Rs.8,81,287/- (Rupees Eight lakhs Eighty One thousand Two hundred Eighty Seven only) with interest against all the defendants. The case of the plaintiff is that he supplied goods to defendant nos.1, 2 and 3 and also on the orders placed by defendant nos.1,2 and 3 to defendant no.4. The defendant nos. 1, 2 and 3 are disputing that they have

received goods. They have also disputed that at their instance the goods were supplied by the plaintiff to the defendant no.4. Though the plaintiff has averred that some of the goods were supplied by him to defendant nos. 1,2 and 3, there is no averment to be found in the plaint that he holds document whereby defendant nos.1,2 and 3 acknowledged the receipt of the goods, and such a document is also not produced on record. Thus, there is no document on record to show that the goods were actually received by the defendant nos.1,2 and 3. There is also no document on record produced by the plaintiff to show that the defendant nos. 1, 2 and 3 had asked the plaintiff to supply the goods to defendant no.4. The plaintiff, in the suit, is also claiming a decree against defendant no.4, but there is no averment that there is a contract between defendant no.4 and plaintiff for supply of goods. The contract averred is between plaintiff and defendant nos. 1,2 and 3, but as observed above there is no document to show that such a contract exist between defendant nos.1,2 & 3 and plaintiff obliging the plaintiff to supply the goods to defendant no.4. In such a situation, in my opinion, it would be appropriate to grant the defendants leave to defend the suit. The summons for judgment is therefore, disposed of. The defendants are granted leave to defend the suit. The defendants to file written statement within a period of Six weeks.